

**MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE**  
**May 15, 2007 at 1:00 p.m.**  
**Room W135, House Building, State Capitol Complex**

Members Present: Sen. Lyle Hillyard, Co-Chair  
Rep. Ron Bigelow, Co-Chair  
Sen. Peter Knudson, Vice Chair  
Rep. Rebecca Lockhart, Vice Chair  
Sen. Curtis Bramble  
Sen. Gene Davis  
Sen. Mike Dmitrich  
Sen. Dan Eastman  
Sen. Patricia Jones  
Sen. Sheldon Killpack  
Sen. Ed Mayne  
Pres. John Valentine  
Rep. Ralph Becker  
Rep. David Clark  
Rep. Brad King  
Rep. Carol Spackman Moss  
Rep. Gordon Snow

Members Excused: Speaker Greg Curtis  
Rep. Brad Dee  
Rep. David Litvak

Staff Present: Mark Bleazard, Deputy Director, LFA  
Greta Rodebush, Legislative Secretary

Speakers Present: Tanielle Young, Governor's Office of Planning and Budget  
Dr. Andrea Wilko, LFA  
Juliette Tennert, LFA  
Michael Hales, Department of Health  
Tim Morley, R. Ph., Department of Health  
Steve Allred, LFA  
John Nixon, Governor's Office of Planning and Budget  
Steve Starks, Utah Policy Partnership

A list of visitors and a copy of handouts are filed with the committee minutes.

**1. Call to Order - Approval of Minutes**

Committee Co-Chair Bigelow called the meeting to order at 1:16 p.m.

**MOTION:** Co-Chair Hillyard moved to approve the minutes of May 15, 2007. The motion passed unanimously with Pres. Valentine, Sen. Bramble, Sen. Eastman, Sen. Killpack, Sen. Dmitrich, and Rep. Moss absent for the vote.

## **2. Federal Funds Report**

Tenielle Young, Governor's Office of Planning and Budget, presented the Federal Funds Report for the period April 1, 2007 through April 30, 2007. She briefly explained one new grant requiring legislative action with the Department of Natural Resources: Forest Legacy-Virgin River Headquarters. In addition to the new grant, there were two reapplications of existing grants requiring legislative action. Ms. Young also noted that five new grants and one reapplication of an existing grant had been approved by the Governor's Office.

**MOTION:** Co-Chair Hillyard moved to approve one new grant and two reapplications of existing grants requiring legislative action listed in the Federal Funds Report for the period April 1, 2007 through April 30, 2007.

The motion passed unanimously with Pres. Valentine, Sen. Bramble, Sen. Eastman, Sen. Killpack, Sen. Dmitrich, and Rep. Moss absent for the vote.

## **3. Revenue Update Report**

Dr. Andrea Wilko, LFA explained that relevant economic indicators, particularly wage and employment data, will not be available until June and requested that the reporting requirements for the Revenue Estimating Committee be changed from May and September to June and October. She also stated that an analysis had been done on the most recent TC-23 addressing a range of revenue based on collections to date. Initial indications are that revenues could be potentially \$30 to \$50 million above a target for the General Fund and \$45 to \$75 million above a target for the Education Fund. Dr. Wilko noted that next month's revenue report should show if this is a long or a short term trend.

**MOTION:** Co-Chair Hillyard moved that the committee reconsider its action related to the revenue collection reporting requirements passed in the April Executive Appropriations Committee Meeting. The motion passed unanimously with Pres. Valentine, Sen. Bramble, Sen. Killpack, Sen. Dmitrich, and Rep. Moss absent for the vote.

**MOTION:** Co-Chair Hillyard moved to change the interim reporting dates from May and September to June and October to more closely align with reporting of economic indicators. The motion passed unanimously with Pres. Valentine, Sen. Bramble, Sen. Killpack, Sen. Dmitrich, and Rep. Moss absent for the vote.

Sen. Hillyard asked if there are any revenue figures on gasoline or transportation tax. Dr. Wilko said that there are indications that motor fuel tax revenues will be down slightly and that special fuel will be up slightly.

Sen. Hillyard also inquired if next month's revenue report will more accurately reflect what the actual revenue figures will be. Dr. Wilko said that she will present a preliminary year end report for FY 2007 as well as initial economic indicators on where we will be in FY 2008.

#### **4. Tobacco Funding - Report on Payments and Future Impact on Programs**

Juliette Tennert, LFA, spoke to the Issue Brief - Tobacco MSA Payments which outlines how revenues from the Master Settlement Agreement accrue and are distributed. The brief also identifies current and potential downward adjustments to revenues and how they may affect future funding of programs.

The MSA requires participating tobacco companies to pay approximately \$206 billion over 25 years, of which Utah's share is about \$836 million. To date, payments to Utah total \$230.2 million, which includes the withholding of Non-Participating Manufacturer (NPM) adjustments of \$3.5 million in FY 2006 and \$3.3 million in FY 2007.

Utah statute directs the deposit of all MSA payments it receives into both the Tobacco Settlement Trust Fund and the Tobacco Settlement Restricted Account. In FY 2007, statute requires that 75% of all payments (\$20.3 million) go to the restricted account and 25% (\$6.8 million) deposited to the trust fund. For all payments received beginning in FY 2008, 60% will go to the restricted account and 40% will go to the trust fund.

Ms. Tennert pointed out that including a beginning balance, FY 2007 restricted account monies are sufficient to cover \$22.9 million in appropriations from the account. Depending on tobacco companies' pursuit of future NPM adjustments, future balances may not adequately cover appropriations from the account.

Ms. Tennert offered a number of options to address a shortfall. She concluded that the Analyst recommends that the Executive Appropriations Committee or the Health and Human Services Appropriations Subcommittee direct the Office of the Legislative Fiscal Analyst to work with the Governor's Office of Planning and Budget and the Office of the Attorney General to provide the 2008 Legislature with options to address the possible shortfall in the Tobacco Settlement Restricted Account for FY 2008.

Sen. Jones observed that funding for programs within the Tobacco Settlement Restricted Account has remained stable with the exception of the Children's Health Insurance Program (CHIP) that continues to increase annually. She asked what effect a budget shortfall would have on CHIP. Ms. Tennert stated that statute requires that as funds are available for any given year,

they be appropriated in a specific order. Since CHIP is first on the list, it would be the last program to see a funding cut.

Rep. Clark asked clarifying questions regarding the impact of an NPM adjustment on the 60/40 payment split on the Tobacco Settlement Trust Fund and the Restricted Account in FY 2008. Ms. Tennert explained that an independent economic consultant will make a national determination as to what the NPM adjustment will be. Adjustments in payments to Utah have been in excess of 10% over the last few years. Whether participating manufacturers will withhold an NPM adjustment from their 2008 payment will not be known until April, after the Legislature convenes and has the opportunity to provide to provide supplemental appropriations for FY 2008.

Sen. Hillyard emphasized the importance of building up the Tobacco Settlement Trust Fund sufficient to generate interest to cover the cost of ongoing programs.

Sen. Jones expressed concern about the various money demands being placed on the General Fund, now and in future.

**MOTION:** Sen. Davis moved to direct the Office of the Legislative Fiscal Analyst to work with the Governor's Office of Planning and Budget and the Office of the Attorney General to provide shortfalls in the Tobacco Settlement Restricted Account for FY 2008 and to report to the Executive Appropriations Committee. The motion passed unanimously with Sen. Bramble absent for the vote.

## **5. Preferred Drug List - Department of Health**

Michael Hales, Director of Health Care Financing, Department of Health, reported on the implementation of SB 42, Preferred Prescription Drug List (2007 General Session). He informed the committee that the Division has a target implementation date for the Medicaid Preferred Drug List (PDL) of August 1, 2007. Proton-pump inhibitors (anti-acid reflex) and statins (cholesterol lowering) are the first two drug classes that will be on the PDL. The Division is currently working to assemble a panel of nine professionals for a Pharmaceutical and Therapeutics (P&T) Committee to determine which drugs of each of the first two drug classes should be included on the PDL. Once the PDL is established, four additional drug classes will be added.

Mr. Hales stated that the Division will be able to experience secondary rebates on PDL drugs since Utah has been accepted into the Sovereign States Drug Purchasing Pool. There was some concern about acceptance early on because statute prohibits the establishment of a prior authorization requirement. However, Utah will be able to participate with the stipulation that in order for Medicaid to pay for non-PDL drugs, a physician must hand write "medically necessary, dispense as written" on a prescription and keep documentation in the clients medical records.

Mr. Hales also indicated that the Division is working with the Utah Medical Association to educate physicians, pharmacists, and medicaid clients about the changes that will be involved in implementing the PDL.

Committee members expressed concern that psychotropic and anti-psychotic drugs could eventually be included on the PDL. Mr. Hales assured them that statute does not allow the Division to include such classes on the PDL.

The committee turned the discussion to the practices of the Drug Utilization Review Board (DUR) and asked about the prior authorization requirements for psychotropic drugs recently imposed by the Board. Mr. Hales stated that in the normal course of administering existing pharmaceutical practices, the Board imposed a prior authorization requirement for the psychotropic drug Invega. Members of the committee expressed concern over this requirement.

Tim Morley, pharmacist, Department of Health, responded to questions regarding cost containment utilization practices that the Department uses for drugs outside the preferred drug list.

Sen. Valentine asked about the failure first policy before doctors may prescribe a psychotropic drug that requires a prior authorization. He expressed concern for public safety when a person is not being properly controlled with correct medication.

Sen. Davis asked about the additional four classes of drugs that are being considered for the PDL. Mr. Morley listed the following: opiate analgesics (oxycotin, loratab, pain medications), sedative hypnotics (sleep medications), non steroidal anti-inflammatory drugs (ibuprofen), and anti-convulsants (neuralgia, fibromyalgia).

Rep. Lockhart asked about the statutory authority of the Pharmaceutical and Therapeutics Committee (P&T). Mr. Hales explained that the P&T Committee is an advisory committee to the Drug Utilization Review Board that makes drug recommendations for the Preferred Drug List. The P&T Committee uses criteria based on clinical and cost related factors that are in accordance with rules established by the DUR Board. The DUR Board in turn considers those recommendations and passes them onto the Division of Health Care Financing.

Sen. Killpack commented on prior concerns regarding psychotropic and antipsychotic drugs and the PDL.

Mr. Hales stated that the Division will prepare a written report describing the DUR Board's decision on Invega.

## **6. Funds Consolidation**

Steven Allred, LFA, presented the Funds Consolidation Report which included an update on major fund types and the number of restricted funds, advantages and disadvantages of consolidating restricted funds, suggestions on which funds to consolidate, and recommendations to the Legislature.

Mr. Allred noted instances in the past where major fund types and the number of restricted funds have been consolidated or eliminated. To date, there are twelve major fund types listed in statute and 128 "major" (General Fund, Education Fund, Transportation Fund) restricted accounts, plus 57 "non-major" (special revenue) funds, for a total of 185. This is more than the 171 funds in existence 40 years ago when the state first did a funds consolidation.

Mr. Allred pointed out that the trend for creating new funds has increased of late. He referred to a table on page 2 of the Report which shows the 20 new funds that were created during the 2007 General Session. In addition, tables on page 3 show that over half of the restricted funds created per year since 1980 were created in the last ten years, while the number of major restricted accounts closed, hasn't kept pace. All 185 restricted funds are listed in the Appendix.

Mr. Allred stated that in view of the increase in the number of restricted funds, as well as the increased workload and complexity they create for the Division of Finance and others, the Office of the Legislative Fiscal Analyst considered the feasibility of consolidating some of the restricted funds back to their major fund type.

Accordingly, the Analyst proposed a number of recommendations:

1. Amend the statutory list of major fund types in UCA 51-5 (page 1, Funds Consolidation Report) to match major fund types implemented in Governmental Accounting Standard Board (GASB) Statement 34. Specifically, this would entail:
  - a. Removing the Education Fund from the list (but not deleting the Fund) since it is a Special Revenue Fund.
  - b. Removing the General Fixed Assets Account Group since it is no longer used.
  - c. Removing the General Long-Term Obligation Account Group since it is no longer used.
  - d. Renaming "College and University Funds" to something more general, such as "Discreet Component Unit Funds"
2. Consolidate the 19 funds listed in the Table entitled: Funds Recommended for Consolidation, that have had little or no activity.
3. Consider a broader approach to fund consolidation.

4. Put an implementation date of July 1, 2008 (FY 2009) on any bill to consolidate or eliminate funds so that there is enough lead time to implement the provisions of the bill and build the FY 2009 budget under the proposed consolidation.
5. Use a stricter sifting process before creating new restricted funds. In the Funds Consolidation study done in 1967, the report suggested:

*To guard against possible passage of a bill which contains provisions to establish a new fund, it is also suggested that the rules of the Legislature require that all such bills be referred to a committee. The designated committee would be assigned to study the bill in the light of the statutes regarding legislative policy governing the establishment of funds.*

The Analyst recommends that this policy, or some variation of it, be adopted to control the establishment of numerous new funds in the future.

Upon conclusion of the presentation, Co-Chair Hillyard made a motion.

**MOTION:** Co-Chair Hillyard moved to accept the recommendations 1, 2, and 4.

Pres. Valentine proposed that the motion be divided, allowing the committee to vote separately on recommendation 1(d) Renaming "College and University Funds" to something more general, such as "Discreet Component Unit Funds."

Rather than divide the motion, Sen. Hillyard accepted Pres. Valentine's suggestion to delete recommendation 1(d) as a friendly amendment.

A vote was taken on the motion.

The motion passed unanimously with Sen. Dmitrich absent for the vote.

On recommendation 3, Co-Chair Hillyard suggested that the Co-Chairs of the Executive Appropriations Committee request further study of additional funds for consolidation, as well as a method to control the number of new accounts created in future sessions.

On recommendation 5, no action was taken.

## **7. Balanced Scorecard**

John Nixon, Director, Governor's Office of Planning and Budget (GOPB) and Steve Starks, Executive Director, Utah Policy Partnership (UPP), addressed the committee.

The Balanced Scorecard Initiative is a performance management system designed to improve efficiency in state government. It provides an analytical framework for developing strategies and metrics or performance indicators that agency directors can report on and use to make management decisions.

Mr. Nixon stated that the Governor's Office has formed a partnership with the Utah Policy Partnership (UPP), the Department of Human Resources Management (DHRM), and the Department of Technology Services (DTS) to assist in the development, coordination, and implementation of a statewide Balanced Scorecard. Through cooperation with the Office of the Legislative Fiscal Analyst, it is expected that this collaborative effort will help ensure longevity.

Mr. Starks explained how the Balanced Scorecard is created and customized for each agency. The Scorecard incorporates "best practice" principles that balance financial considerations, internal business processes, human resources, and customer relations. The Scorecard contains a clearly defined set of metrics that are presented in a dashboard format that can be easily read and reported on a regular basis.

Sen. Jones spoke in favor of the Balanced Scorecard Initiative. She asked what was being done internally to educate employees about the Balance Scorecard.

Mr. Nixon responded that approximately 250 agency leaders and division directors received formal training last year. In turn, this training will filter down to department and team levels, informing employees on how they fit into the overall reporting for the agency. Mr. Nixon indicated that most employees are aware of the initiative.

Rep. Becker voiced his support for the initiative as well. Rep. Becker stated that he would like to see a statewide strategic plan complete with mission statement, goals, and objectives that are consistent with executive and legislative policy.

Mr. Nixon stated that today's presentation included a condensed version of what the statewide Balanced Scorecard will look like. While agencies are currently developing their own performance measurement scorecards, the state is also moving forward in formulating a broader statewide strategic plan. He also mentioned that GOPB is working with the Office of the Legislative Fiscal Analyst as well as the appropriations subcommittee co-chairs to ensure that the Legislature's feedback on performance evaluation is included in the development of each agency's Balanced Scorecard. Mr. Nixon pointed out that the results of these performance reports will be published on a website.

Committee discussion concluded.

**MOTION:** Rep. Lockhart moved to adjourn. The motion passed unanimously.

Co-Chair Bigelow adjourned the meeting at 3:16 p.m.